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SPECIAL MESSAG

OF

CHARLES S. DENEEN

GOVERNOR March 1, 1911

COMPLIMENTS OF
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SECRETARY OF STATE

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GOVERNOR'S SPECIAL MESSAGE.

STATE OF ILLINOIS, EXECUTIVE DEPARTMENT,
SPRINGFIELD, March 1, 1911.

Gentlemen of the Forty-seventh General Assembly:

An opinion of the Attorney General, rendered to the Senate on Feb. 13, 1911, points out certain defects in the Act creating the State Game Department and providing for its maintenance. Under the provisions of the present law, approved April 28, 1903, in force July 1, 1903, and Acts amendatory thereto, the funds available for the support and maintenance of the State Game Department are placed in the State treasury and, under section 25 of said Act, are there set apart as a special fund known as the State Game Protection Fund.

Under the present law, all moneys used for the payment of salaries of the State Game Commissioner, the game wardens and deputy game wardens, are made payable by the State Treasurer out of the State Game Protection Fund upon warrants drawn by the Auditor of Public Accounts, upon presentation to him of proper vouchers certified to by the State Game Commissioner and approved by the Governor. This provision of the law is found defective by the Attorney General, in that it is in contravention of certain constitutional provisions in relation to appropriation measures.

The provisions of the game law in relation to expenditures for the maintenance of the State Game Department are also found to be defective in that they violate constitutional provisions governing the appropriation of money from the State treasury.

The opinion is based upon the decision of the Supreme Court of our State in the case of *The People* v. *Joyce,* 246 Ill., 124, decided Oct. 12, 1910.

The importance of the conclusions reached by the Attorney General in his opinion and the necessity of immediate action by your Honorable Body to provide for the continuance of the work of this important department are apparent. Ever since its creation, the funds of the State Game Department have been disbursed under this act in the manner now found defective by the opinion of the Attorney General. For all these expenditures, vouchers certified to by the State Game Commissioner and approved by the Governor are on file in the office of the Auditor of Public Accounts; and as the change necessary to comply with constitutional provisions will require nothing more than a change in the method of drawing upon the Game Protection Fund in the State Treasury, there

should be no difficulty in securing the immediate passage of the necessary legislation, with an emergency clause, so as to prevent any unnecessary embarrassment to the administration of the work of the State Game Department.

The opinion of the Attorney General deals exclusively with the State Game Department, but in his annual report for 1910, the Attorney General intimates that the acts relating to those departments, institutions, boards and commissions which receive fees or public moneys and do not transmit them to the State Treasury through the Auditor of Public Accounts, or from which expenditures are made for salaries or other purposes without being authorized biennially by appropriation acts of the General Assembly, are unconstitutional.

Under present statutes, certain departments, institutions, boards and commissions, place the fees collected by them in the State Treasury where they are set apart, under the provisions of the statutes, as special funds to be paid out upon warrants approved by the heads of the departments and the Governor, without requiring a special appropriation by the General Assembly in each instance. In others, where, in the act creating a department, the collection of fees to be devoted exclusively to the maintenance and administration of the department is provided for, such fees have not been required by the act to be covered into the State Treasury, and, under the law, have been paid out directly by the department, upon vouchers approved by the head of the department. In all cases, reports of receipts and disbursements, giving an itemized account of all such expenditures have been made to the Governor, as required by law, and in all instances these accounts have been audited at least once a year by the Department and Institution Auditor connected with the Executive Department.

I have taken pains to investigate the statutes creating the various State departments, institutions, boards and commissions, whose provisions governing the disposition of the fees and funds set apart for their support do not, according to the views of the Attorney General, comply with the constitutional requirements relative to appropriations. They are the following:

Food Commission, created April 24, 1899. Food Commission Fund, deposited in the State treasury and drawn out without appropriation.

Fish Commission, created May 13, 1879. Fish Protection Fund, deposited in State treasury and drawn out without appropriation.

Board of Administration, created June 15, 1909. Board of Administration Fund. The act of 1910 purports to appropriate this fund to the Board of Administration to be expended in accordance with the provisions of the act, but the maximum amount appropriated is not fixed.

Board of Health, created May 27, 1877. The Board has appropriations, but the fees collected are not paid into the State treasury and are not appropriated.

Board of Pharmacy, created May 30, 1881. Fees collected are not paid into the State treasury and the Board has no appropriation for any purpose.

Fire Marshal's Office, created June 15, 1909. The act creating the department provides for the application of fees, collected through the insurance department, to the maintenance of the Fire Marshal's office. Under the act payment of these fees has been made to the Insurance Superintendent, who is prepared to pay them into the State treasury when appropriation measures are passed to make the law effective.

Barbers Board, created June 20, 1909. Fees collected are not paid into the State treasury and the Board has no appropriation.

Grain Inspection Departments at Chicago and East St. Louis, created under act of April 25, 1871. Collections are not paid into the State treasury and neither of the departments has an appropriation.

Board of State Veterinarians, created under act of June 27, 1885. Collects license and other fees. They are not paid into the State treasury and are not appropriated.

University of Illinois, created February 28, 1867. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated.

State Normal University, created February 18, 1857. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated

Southern Illinois Normal University, created March 9, 1869. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated.

Eastern Illinois State Normal School, created May 22, 1895. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated.

Northern Illinois State Normal School, created May 22, 1895. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated.

Western Illinois State Normal School, created April 24, 1899. Tuitions, fees and other receipts are not paid into the State treasury and are not appropriated.

Bureau of Labor, created May 29, 1879. License fees collected under "An Act relating to private employment agencies, and to repeal parts of a certain act relating thereto," approved June 15, 1909, are not paid into the State treasury and no appropriation of the fees is made.

Board of Agriculture, created April 15, 1872. Collects premiums, gate receipts and other moneys that are not paid into the State treasury and are not appropriated.

Stallion Registration Commission, created June 10, 1909. Collects fees that are not paid into the State treasury and are not appropriated.

Board of Prison Industries, created May 11, 1903. Collects moneys under the provisions of "An Act to regulate the employment of convicts and prisoners in the penal and reformatory institutions of the State of Illinois, and providing for the disposition of the products of their skill and industry," in force July 1, 1903. The collections under this act are not paid into the State treasury and are not appropriated.

Insurance Department, created June 20, 1893. Examination fees collected are not paid into the State treasury, but are appropriated by the 50th paragraph of the Act to appropriate moneys to pay the general expenses of the State government. No maximum amount is fixed.

Board of Certified Accountants, created May 15, 1903, State University. Fees for examinations are collected but are not paid into the State treasury and are not appropriated.

Secretary of State. Fees received for automobile and chauffeur licenses, under Act of June 10, 1909, are not paid into the State treasury, but are appropriated by the 50½ paragraph of the Act appropriating money to pay the general expenses of the State government. No maximum amount is fixed.

Auditor of Public Accounts. Fees collected as superintendent of banking department under Act of June 16, 1887, and building and loan department, under Act of July 1, 1899, are not paid into the State treasury, but are appropriated by the 18th paragraph of the Act appropriating money to pay the general expenses of the State government. The maximum amount is not fixed.

Board of Examiners of Dental Surgery, created under Act of May 15, 1905. Fees and other collections are not paid into the State treasury, and no appropriation is made to the Board.

State Board of Architects, created June 3, 1897. Fees and other collections are not paid into the State treasury and no appropriation is made to the Board.

Illinois State Penitentiary (Joliet), created February 19, 1857. Miscellaneous collections of this institution are not paid into the State treasury and are not appropriated.

Southern Illinois Penitentiary (Chester), created May 24, 1877. Miscellaneous collections of this institution are not paid into the State treasury and are not appropriated.

State Reformatory (Pontiac), created March 5, 1867. Miscellaneous collections of this institution are not paid into the State treasury and are not appropriated.

In view of the fact that it would be impossible to discontinue the work of a department, institution, board or commission, to await the decision of the Supreme Court in each case or class of cases arising under the statutes enumerated above, and of the possible embarrassment that might arise hereafter should questions be raised as to the validity of the expenditures of the departments, institutions, boards and commissions enumerated, and which might require the convening of the General Assembly in extraordinary session, I deem it wise at this time to submit for the consideration of your Honorable Body the question of the amendment of said statutes. Their amendment will affect merely the method of keeping accounts by these departments, institutions, boards or commissions, and not their administration.

Should the necessity arise during the present session of your Honorable Body for the passage of laws with emergency provisions regarding any of these branches of the State government, I shall call the matter to your attention and request that such laws be enacted.

Respectfully submitted,

CHARLES S. DENEEN,
Governor.